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The Bélanger-Campeau and  
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**Background Paper**

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## **THE BÉLANGER-CAMPEAU AND ALLAIRE REPORTS**

**Mollie Dunsmuir  
Law and Government Division**

**May 1991**



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THE BELANGER-CAMPEAU AND ALLAIRE REPORTS

BACKGROUND AND MANDATE

The Bélanger-Campeau report<sup>(1)</sup> is the report of the Commission on the Political and Constitutional Future of Québec, widely referred to by the names of the co-chairmen, Michel Bélanger and Jean Campeau. The National Assembly of Quebec created the Commission by statute on 4 September 1990, with the unanimous consent of all political parties.

The mandate of the Commission, set out in section 2 of the Act, was "to examine and analyse the political and constitutional status of Québec and to make recommendations in respect thereof." There was also an extensive Preamble to the enacting legislation, found in Appendix 1, which set out the historical and social context within which the Commission was to operate. As the report itself made clear, the Commission is Quebec's response to the failure of the Meech Lake process:

The Commission's mandate is based on an observation on June 23, 1990, by the Premier of Québec and confirmed by all members of Québec's National Assembly, according to which rejection of the 1987 Agreement on the Constitution has called into question the political and constitutional future of Québec and made it necessary to redefine Québec's status. (BC:4)

The membership of the Committee, as set out in the legislation, was exceptionally broad:

two chairmen appointed on the joint approval of the Premier and the Leader of the Official Opposition;

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(1) "Report of the Commission on the Political and Constitutional Future of Québec," Quebec National Assembly, March 1991. Quotations from this document within the text are indicated by "BC:[page number]." The recommendations are included as Appendix 2.



sixteen members of the National Assembly, of whom nine were appointed by the Premier, six by the Leader of the Official Opposition, and one by the Equality Party;

thirteen persons from the broader public, appointed by the Premier after consultation with the Leader of the Official Opposition, including two elected municipal officers, four representatives of the business sector, four trade unionists, and one representative each from the cooperative, educational and cultural sectors;

three members of the House of Commons elected from Quebec; and

the Leader of the Official Opposition and the Premier.

The leader of the Equality Party, Mr. Robert Libman, was also a participant but without voting rights. The Commission was required to report back to the National Assembly by 28 March 1991.

The Commission received over 600 briefs, and heard from 235 groups and individuals between 6 November 1990 and 23 January 1991. Additionally, a Forum on Youth and the Future of Quebec was held, with over 30 presentations. The Commission also received information from some 55 political, legal, economic, social and cultural experts.

The Bélanger-Campeau report is divided into ten sections: a list of the Commission membership; the mandate; an introduction; a description of Quebec society; a summary of the events over the past 30 years that have contributed to the Quebec-Canada stalemate; a description of the two apparent options, either major changes to the existing constitutional relationship or sovereignty; conclusions; a recommendation on legislation to be adopted by the National Assembly providing for a referendum on Quebec sovereignty, and for dealing with new constitutional offers from the rest of Canada; and two addenda, the first containing additional comments from members of the Commission who did sign the report and the second containing comments from members who did not sign the report.

While the Bélanger-Campeau report is a document of the National Assembly of Quebec, the recommendations of which are being



incorporated into provincial legislation, the Allaire report<sup>(2)</sup> is a policy position of the Liberal Party of Quebec. In February 1990, the General Council of the Quebec Liberal Party passed a resolution giving the Allaire Committee, or more properly the Constitutional Committee of the Quebec Liberal Party, a mandate to prepare "the political content of the second round of negotiations to begin after the ratification of the [Meech Lake] Accord," as well as "the preparation of alternative scenarios to be submitted to Party bodies to prepare for the eventuality of the failure of the Meech Lake Accord" (A:vii). The Committee was to consult broadly, and file its report with the Executive Committee in January 1991.

The Allaire report, "A Québec Free to Choose", is divided into nine parts: a description of the members and mandate; an introduction; five chapters; a conclusion; and a series of draft resolutions. The draft resolutions were adopted, with some changes, by the Quebec Liberal Convention in early March 1991.

The relationship between the two reports is not entirely clear. Presumably, the Allaire report affects only the Liberal Party position, while the Bélanger-Campeau report, especially once its recommendations are enacted by the National Assembly, sets the framework for the political response of the province as a whole. The Allaire report, as accepted by the Liberal Convention, specifically provides for its proposals to be amended in conformity with the Bélanger-Campeau report.

In terms of actual content, the Bélanger-Campeau report is internally consistent, but very general in its conclusions and recommendations. While it is clear that the report envisages only two possible outcomes to the constitutional dilemma, either major revisions to the existing constitutional relationship or Quebec independence, it does not attempt to forecast either scenario in detail.

The Allaire report, while arriving at much the same conclusion as to possible outcomes, goes into considerably more detail about the constitutional changes that would be necessary to keep Quebec in

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(2) Quebec Liberal Party, Report of the Constitutional Committee, 28 January 1991. Quotations from this document within the text are indicated by "A:[page number]." The recommendations are included as Appendix 3.



Confederation. However, to the extent that it attempts to be more precise than Bélanger-Campeau, it is also less internally consistent. Although the general thrust of the report is clear, it can be ambiguous, and even contradictory, about the specific mechanisms and structures involved.

## THE NATURE OF CONFEDERATION

Both reports note that, from Quebec's point of view, the present constitutional dilemma is not new, but has evolved over a considerable period as a result of fundamentally differing views of the agreement reached in 1867. Quebec views Confederation as a compromise between two founding peoples, with the francophone unit centred in Quebec, and as a confederal arrangement in which the various political units delegated certain powers to the central institutions. As Bélanger-Campeau notes: "from Québec's standpoint, the Canadian federal régime was based at the outset on the Canadian duality and the autonomy of the provinces" (BC:11).

### A. Two Equal Founding Peoples

The Bélanger-Campeau report considers the concept of linguistic duality to be the underlying principle of the federal union, "seen as a pact between these two peoples which may only be altered with the consent of these two parties" (BC:12). It cites the conclusions of the Royal Commission on Bilingualism and Biculturalism (Laurendeau-Dunton Commission, 1963) and the Task Force on Canadian Unity (Pepin-Robarts Commission, 1978) to establish the historical nature of the complex problems surrounding "the political and constitutional relations between two linguistic groups, two majorities" (BC:9).

The Allaire report also consistently confirms Quebec's view of Confederation as a pact between two equal founding peoples:

In Québec, Confederation has always been perceived as a solemn pact between two nations, a pact that could not be changed without the consent of the two parties.  
(A:56)



The report considers it self-evident that the constitutional crisis results largely from the inability of common-law Canada to maintain a vision of two equal founding peoples: "the concept of two founding peoples and the recognition of Québec as a distinct society have clearly been rejected by English Canada" (A:55).

Although recognizing that the rest of Canada has become less "English" and now involves several distinct regions, the Allaire report does not accept any modification of the original "two nations" theory:

Perhaps [the failure of the Meech Lake Accord] also reflects a collective lack of willingness to live together on the historical basis of two founding peoples brought about by, among other things, a constant massive influx, especially in English Canada, of immigrants who necessarily have little knowledge of the historical origins of Canada. (A:13)

## B. Provincial Autonomy and Decentralization

Both reports emphasize that for several decades Quebec has consistently tried to move the Canadian federation towards decentralization. It is perhaps because Quebec historically so identifies its own position with the need for constitutional decentralization that Quebecers see the defeat of Meech Lake as a rejection of Quebec itself rather than, like many Canadians in the common law provinces, as a rejection of decentralization.

Quebec views any move towards centralization as a federal intrusion into the autonomy guaranteed to the province at Confederation. Federal actions in the area of language or education, in particular, are seen as incompatible with the spirit of Confederation.

The Allaire report, in particular, suggests that provincial autonomy was at the heart of the agreement to confederate. While accepting that the *Constitution Act, 1867*, gave clear predominance to the federal government, the report argues that this perverted the intent of Confederation, a system in which "the member states retain full sovereignty, both internal and external, but delegate the exercise of certain powers to a central body" (A:7).

Both the Quebec reports firmly conclude that Confederation was a binding contract between two founding nations, linguistically defined, and that it was broken, by implication at least, when the Charter of Rights and a new amending formula were adopted over Quebec's objections. The issue of regionalism, however, is never adequately addressed, nor the fact that regionalism was also part of the very origins of Confederation.

Canada prior to 1867 did consist of two separate political entities, Upper and Lower Canada (Ontario and Quebec), so politically equal that a deadlock prevailed. Immediately after 1867, however, there were already three regions represented in the union, as indicated by the three divisions of the Senate (Ontario, Quebec and the Maritimes). The Maritimes did not perceive themselves as joining either Ontario or Quebec so as to maintain two nations, but as a third region with different economic and social interests.

## THE NEED FOR MAJOR CHANGE

Both reports consider it self-evident that major constitutional change is essential for Quebec, whether within the Canadian framework or as a sovereign state.

### A. The Maturing of Quebec

The Bélanger-Campeau report stresses the evolution of Quebec since 1962 into a distinct national collectivity:

Before, French-speaking Québécois were more inclined to see themselves as French Canadians and a minority. Now, they see themselves first and foremost as Québécois and are acting more and more like a majority within their territory. (BC:15)

The report stresses the importance of specifically Quebec institutions, such as Hydro-Québec and *Caisse de dépôt et placement du Québec*, in hastening the emergence of a French-language business class.

Other factors cited as indications of Quebec's maturation as a modern society with a distinct national identity are: its international



presence in the institutions of the French-speaking world; the entrepreneurial spirit of its private sector; the role of French in communications and business; the openness and fairness towards linguistic minorities (both English-speaking Quebecers and the French-speaking population outside Quebec); and the respect for basic human rights exemplified by the *Québec Charter of Human Rights and Freedoms*, which is one of the most complete charters of rights to date. The report also affirms Quebec's commitment to reaching agreements with the Amerind population of 52,000 people from 14 nations, and the more than 6,000 Inuit.

#### B. 1960-1990: The Clash of Political Visions

Both reports suggest that it has been increasingly difficult to reconcile conflicting "identities, aspirations and political visions within the constitutional framework of the Canadian federation" (BC:27) over the past 30 years. As Quebec affirmed its distinctness and demanded recognition of its special status, aspirations and needs, clarifying jurisdiction and stopping federal interventions became a priority.

Constitutional discussions that began in 1968, largely at Quebec's insistence, have shown that other provinces and the federal government do not share Quebec's concerns about constitutional reform, or the need for changes in the division of power. Both reports suggest that, as Quebec was moving to limit and redefine federal powers, the rest of the country was inclining towards even greater centralization:

Québec was attempting to move federalism in the direction of a new distribution of powers, while Canada was tending toward greater centralization. (A:11)

Given its constant concern to maintain the autonomy of the National Assembly, Québec has always denounced federal intervention and encroachment in its fields of exclusive jurisdiction. As the trend toward centralization grew, tension and conflict became inevitable. (BC:12)

Prior to the Quebec referendum on sovereignty-association in 1980, the then Prime Minister promised Quebecers that Canadian federalism would be renewed. Instead, two years later the Constitution was patriated

and a Charter of Rights enshrined without Quebec's concurrence. Quebec's jurisdiction over the language of education was curtailed, and an amending formula put in place that neither required Quebec's consent nor provided for full compensation if the province opted out.

After the negotiations leading to the *Constitution Act, 1982*, it appeared to Quebec that the concerns and priorities of the federal government and of other provincial governments were recognized, but not those of Quebec. The equality of all individual Canadians across the country, enshrined in the *Canadian Charter of Rights and Freedoms*, did not allow for the special constitutional recognition of Quebec as a society. Similarly, the principle of multiculturalism was constitutionalized, but not the principle of Canadian duality and Quebec's distinctiveness. Finally, the principle of the equality of the 10 provinces prevented recognition of the special status of Quebec.

Moreover, the *Constitution Act, 1982* dramatically altered the political compromise of 1867, based on British constitutional principles and the supremacy of Parliament, by incorporating the American tendency to resolve major socio-political issues before the courts.

The principles it enshrines have indeed engendered a hitherto unknown political cohesiveness in Canada. It helped bolster certain political visions of the federation and the perception of a national Canadian identity which are hard to reconcile with the effective recognition and political expression of Québec's distinct identity. (BC: 33)

The 1982 constitutional package, implemented over Quebec's continued opposition, has resulted in almost a decade of constitutional instability and the attendant uncertainty. The Meech Lake Accord, which was seen as "the first response ever given by the rest of Canada to constitutional initiatives launched 20 years earlier by Québec" (BC:32-33), revealed the conflicting visions, identities and political objectives across the country, and foundered because of them. Consequently, its failure raised doubts as to whether the stalemate can ever be resolved.

After 25 years of constitutional debate, two federal commissions of inquiry, the major constitutional changes adopted in 1982 without Québec's consent and



finally the failure of a political process which, for the first time, broached the political dimension of the Québec problem from Québec's standpoint, it is reasonable to ask, at the very least, whether the rest of Canada is capable of making choices which fully satisfy Québec's own needs, aspirations and visions. Until now, such choices have been perceived or treated as being irreconcilable with other needs, aspirations and visions in Canada, or incompatible with the efficient operation of the Canadian federation. (BC:39)

Reviewing the history of the last three decades, the Allaire report concludes that "Canada has been going through 'the most serious crisis in its history' for more than 25 years" (A:23). It argues that the goal of a common market and a strong international economy cannot be achieved because of political sluggishness and the crisis in public finances, that there is an inability to reduce regional disparities, and that Canada's cultural contradictions have not been resolved because of a rejection of the notion of duality.

### C. The Cost of Constitutional Uncertainty

Both reports note the cost of continued constitutional uncertainty and the need for Quebec and Canada to concentrate their efforts on productivity and competitiveness instead of on continued constitutional debate. The Allaire report, in particular, suggests that present constitutional arrangements are impairing Canada's ability to achieve a competitive economic environment. It considers that Canada is based on the outdated "concept of an interventionist state, a welfare state" (A:18). "The Canadian state is too cumbersome, too centralized," creating an "inability to adapt to new international economic and political realities" (A:23).

The Allaire report refers to the "constitutional, political, financial and economic impasse currently paralysing Canada" (A:1). A recurrent theme is the present unworkability of Canada, and the assumption that Quebec's proposal of a quasi-sovereign Quebec economically allied with Canada is in the best interests of both parties.

Overall, the report appears to assume that Quebec is being economically damaged by its present relationship with Canada. Throughout the Allaire report, there are references to costly "duplication" caused by

overlapping jurisdiction in such sectors as economic development, agriculture, immigration, health, education, manpower training, etc.

The Allaire report also singles out the inability of Canada to reduce regional disparities as an indication that the country is not working. The main thrust of the criticism is that federal policies "tend to encourage dependence rather than increasing mobility or improving the conditions of production in recipient regions" (A:21).

, The Bélanger Campeau report notes that public opinion is becoming increasingly polarized, and the longer it takes to resolve our constitutional difficulties, the greater the political and social cost will be.

#### D. The Amending Formula

The Bélanger Campeau report singles out the amending formula adopted in 1982 as a deterrent to constitutional reform, arguing that it allows amendments derogating from Quebec's interests to be passed without Quebec's consent. Moreover, the right to compensation in such cases applies only in the fields of education and culture. Unanimity is required to alter the amending formula itself, and the failure of Meech Lake shows how difficult this makes it to obtain the necessary constitutional changes recognizing Quebec's uniqueness and special needs (BC:38).

#### CONSTITUTIONAL OBJECTIVES

Both the Bélanger-Campeau and Allaire reports agree that the existing Canadian constitutional framework is not an option for Quebec:

The special needs and legitimate aspirations of Quebec society must normally be reflected in the fundamental law which governs it; Québec society must be able to recognize itself therein and subscribe freely to it.  
(BC:45)

They agree that the only two options are a major redefinition of Quebec's status within the present Canadian constitutional framework, or Quebec independence, but with economic ties to Canada.



The Bélanger-Campeau report does not suggest specific objectives for a redefined federalism, but rather lists the changes most often mentioned by groups and individuals who appeared before the Commission:

a recognition of and respect for the identity of Quebecers and their right to be different;

the elimination of the federal spending power and the ability of the federal government to interfere in matters under Quebec's exclusive jurisdiction;

exclusive Quebec jurisdiction over social, economic and cultural development, as well as language;

the transfer of tax and financial resources related to Quebec responsibilities;

Quebec representation in common institutions to fully reflect its particular situation; and

a Quebec veto on constitutional amendments or, in appropriate instances, the right to opt out with compensation.

Other reforms were also suggested, including a right to withdraw from the federation, and Quebec jurisdiction over international relations with respect to those matters over which it has domestic authority. Several witnesses proposed that Quebec should adopt its own constitution as part of the federal rearrangement.

The Allaire report suggests that any new political and economic order must be based on four objectives: political autonomy, economic development, respect for rights and freedoms and the stability of social programs. To ensure cultural autonomy, the report proposes that Quebec have exclusive jurisdiction in all areas affecting culture and communications. To deal with the demographic challenge, Quebec also requires exclusive jurisdiction over family policy.

To achieve economic development, which it feels is already hampered by the Canadian economic crisis and overlapping jurisdictions, the Allaire report proposes exclusive Quebec authority over manpower, vocational training, research and development, unemployment insurance, regional development, agriculture, energy, the environment, natural

resources, and tourism. A new distribution of taxing powers would also be necessary to reflect diminished federal responsibilities. The Bank of Canada should be restructured to ensure greater democratic legitimacy and more attention to regional needs.

The report affirms that respect for rights and freedoms would include safeguarding the historic rights of anglophone Quebecers; considering the aboriginal peoples as distinct nations and equal partners; guaranteeing the right of allophone (immigrant) communities to develop themselves as cultural communities; entrenching the *Québec Charter of Human Rights and Freedoms* in the new Quebec constitution; and increasing support to francophone communities outside Quebec.

In order to preserve the integrity of its social programs, the Allaire report concludes that Quebec requires exclusive powers over education, health, social services, income security, and housing. The report argues that the federal government is abandoning its financial commitments to provincial social services, but still seeks to maintain certain national standards and conditions that may not be appropriate in each region. Additionally, efforts to combat poverty require coordination in the areas of training, upgrading, taxation and personal transfer mechanisms, and this can best be done by a single level of authority closer to those who use and pay for the services.

#### THE QUEBEC-CANADA STRUCTURE

The Bélanger-Campeau report does not suggest an alternative constitutional structure, considering it "incumbent upon [Canada and the other provinces] to inform Québec of the contents of possible arrangements to which they would adhere" (BC:74).

The Allaire report, however, devotes a whole chapter to "A New Québec-Canada Structure." The report states that the proposed structure is based on three elements: "a stronger Canadian economic union, political autonomy for the Québec state, and a reorganization of Canada's political structure" (A:35).



#### A. The Common Parliament

The common structure proposed by the Allaire report is ambiguous. On the one hand, it is consistently referred to as a Quebec-Canada arrangement, which seems to suggest a quasi-sovereign Quebec and a quasi-sovereign Canada, with a common Parliament administering the common currency and the common debt, defence and territorial security, customs and tariffs, and equalization payments. On the other hand, the "common Parliament" is to be elected by universal suffrage (A:3,41), which suggests an organization more similar to the existing House of Commons but with severely limited powers.

The common Parliament, or "new Canadian Parliament," would be responsible for "consultation, coordination and execution" in the areas of exclusive federal jurisdiction, although one of the specific objectives of the new arrangement would be to reduce substantially the size of the central government (A:1,39). It appears the decisions of the common Parliament would have to be ratified, in some circumstances at least, by the Quebec National Assembly, as well as by the assemblies of all other legislatures (provincial or regional) adopting the same approach as Quebec (A:41).

Ratification by the Quebec National Assembly may, however, be necessary only for decisions on the monetary and customs union and for policies affecting economic mobility between Quebec and Canada, the areas that the report stipulates will require "common decision-making mechanisms" (A:40). It is also possible that the Allaire report is suggesting some "common authorities" that would co-ordinate the economic union and would report to the common Parliament or "central institution," and that it is Parliament's decisions on these matters that would require ratification.

#### B. Delegation Back to the Federal Government by Other Provinces

The report suggests that other provinces or regions would be free either to assume the same powers as Quebec or to

redelegate certain powers to central institutions  
through administrative agreements that do not affect

Quebec. Thus regions that are unable or do not want to assume the same degree of autonomy could mitigate the drawbacks of the new order. (A:41)

There is, however, no indication of how this might work in practice. For example, the federal government's taxing ability would be severely constrained, as would its ability to contract debts, so the provinces wishing joint federal services might have to raise the funds themselves through the expanded provincial taxing powers and then transfer the moneys to the federal government.

### C. The New Common Court

A new court would be set up to interpret, or "ensure compliance" with, the laws of the new central state. The form of such a court would reflect the Meech Lake proposals for the Supreme Court (A:42). Presumably this means it would have nine judges, at least three of whom would be from Quebec and appointed from a list submitted by the government of Quebec. On the other hand, if the court is to be an adjudicative tribunal between a quasi-sovereign Quebec and a quasi-sovereign Canada, control over one-third of the appointments might not be sufficient to protect Quebec's interest.

This may be a slight anomaly, since the three Quebec seats on the present Supreme Court of Canada are guaranteed in recognition of the fact that Quebec's civil law is distinct from the common law tradition of other provinces. Hence, at least three judges versed in civil law are necessary to ensure that civil cases from Quebec can be fairly tried. It is less clear why one province should have guaranteed seats on a court dealing only with the interpretation of a limited portion of the Constitution.

Decisions of the Quebec superior courts could no longer be appealed to the Supreme Court of Canada. Since the Supreme Court would also be precluded from dealing with federal powers under the Constitution, its future role remains unclear. The report does not state whether the present Supreme Court could continue to enforce the *Charter of Rights and Freedoms* with respect to the new federal government, or whether this would



become the responsibility of the new federal tribunal. If the latter, the country would be in the confusing situation of having at least two courts with supreme authority to interpret the Charter, depending on the level of government involved.

#### D. Taxation

The Allaire report proposes that "specific targets will be set to limit severely the power of central institutions to contract debts. Institutional constraints will be imposed to curb the possibility of developing deficits at the central level" (A: 41). The central government's tax base would be revised to reflect its reduced role, and its tax powers limited.

#### E. The Senate

Originally, the Allaire report would have abolished the Senate. This proposal was amended at the Liberal convention to abolish only the Senate in its present form (Resolution 6(c)).

#### F. Amending the New Constitution

The Allaire report suggests that the new Constitution would recognize "the right of the parties to withdraw after giving advance notice" (A:3). There would also be a new amending formula requiring the approval of a substantial majority of provinces representing at least 50% of the population, with an apparent Quebec veto ("Quebec being necessarily included" A:41). This seems to mean that the present 7/50 general amending formula would apply to all amendments, including those at present requiring unanimity, with a Quebec veto over all amendments.

#### G. Common Currency and Monetary Policy

The Allaire report insists that the Bank of Canada be restructured to provide effective regional input. It assumes that future monetary policy will be conducted in a way that better reflects the regions of Canada (A:2), including a "reorganization of the decision-making

structure of the Bank of Canada" (A:41). The report claims that it does not want to politicize the central bank, but "insists on the need to implement a more equitable and more visible monetary policy" (A:6) and proposes that delegates from each of the regions would be on the board of directors (A:42).

The report concludes that monetary union will be viable only if the regions' budgetary policies are consistent:

Uncoordinated and diverging policies would only work to compromise monetary stability and hence the conduct of a common monetary policy. The need for coordination is particularly important since the budget of the common authorities will be strictly limited, accounting for only a low proportion of total public spending, and will be constrained by rules such as a limitation of borrowing authority. (A:42)

#### H. Economic Union

The Bélanger-Campeau report notes that a major purpose of Confederation was the creation of an economic union among the British North American colonies. Bolstered by broad federal powers in economic areas, a protectionist trade policy and the development of east-west communications lines, the Canadian economic union flourished. Ontario and the Atlantic provinces in particular continue to be economically interlinked with Quebec, but the report also notes that, consistent with international trends towards the globalization of markets, foreign markets have become increasingly important to the province (BC:21-23).

The Allaire report places considerable emphasis on economic union with the rest of Canada based on the principle of free mobility of goods, services, people and capital.

In this regard, Quebec will have to declare that, regardless of the constitutional scenario that is finally adopted, it has no intention of reconsidering the economic union and that, on the contrary, it will work to strengthen it. This declaration will make it absolutely clear that Quebec will respect all trade and international treaties in which it is already a full-fledged participant as a member of the Canadian federation. Quebec will indicate its intention to respect its financial commitments. (A:45)



## THE DIVISION OF POWERS

The Bélanger-Campeau report does not spell out what division of powers it considers appropriate, but does note that in the past successive Quebec governments have focused primarily on education, higher education, income security, health, taxation, regional development, language, culture, international relations, communications, the environment, immigration, the federal spending power and the auxiliary, declaratory, residual and disallowance powers (BC:27-28).

The Allaire report, on the contrary, gives a very detailed breakdown of the proposed division of powers, but little explanation as to why some would remain concurrent or within exclusive federal jurisdiction.

Table 1

### Division of Powers in the Allaire Report

<b>Exclusive Quebec Authority</b>		
Social Affairs	Energy	Research and Development
Municipal Affairs	Environment	Natural Resources
Agriculture	Housing	Health
Unemployment Insurance	Industry and Commerce	Public Security
Communications	Language	Income Security
Culture	Recreation and Sports	Tourism
Regional Development	Manpower and Formation	
Education	Family Policy	
<b>Shared Authority (or distributed according to authority)</b>		
Native Affairs	Justice	Post Office and
Taxation and Revenue	Fisheries	Telecommunications
Immigration	Foreign Policy	Transport
Financial Institutions		
<b>Exclusive Canadian Authority</b>		
Defence and Territorial	Currency and Common Debt	
Security	Equalization	
Customs and Tariffs		

Source: *A Quebec Free To Choose*, " 28 January 1991, p. 38.

### A. Exclusive Quebec Authority

Under the Allaire report proposals, Quebec would hold exclusive jurisdiction in the 22 areas listed above. The federal spending power, or ability to fund programs in areas outside federal jurisdiction, would be eliminated in these areas, including health, unemployment insurance, regional development, and manpower training. Quebec would also control all residual powers, or those not specifically listed in the Constitution. Under the present Constitution, residual powers rest with the federal government, and give it authority over national emergencies or national concerns (such as the environment), as well as over constitutional "gaps" such as communications.

The report suggests that reciprocal or coordinating agreements would be entered into with the rest of Canada where necessary to consolidate the economic union. Examples would include: standards and regulations, tariffs, farm products marketing policies, corporate trade practices, portability of diplomas, environmental standards, harmonization of tax policies and even social security (A:38).

### B. Areas of Shared Authority

To avoid "overlap" or "encroachment and incoherence," the Allaire report outlines in detail the division of Quebec/Canada powers in most of the areas of shared authority.

	<u>QUEBEC</u>	<u>CANADA</u>
Fisheries	Inshore	Offshore
Financial Institutions	Chartered in Quebec	Chartered in Canada
Justice	Civil Law Administration of Justice Administration of the courts	Criminal Law
Transport	Regional	Inter-Regional
Immigration	Selection and Integration	Health and Security and Refugees



Given this detailed breakdown, it is unclear why the report did not simply assign Quebec exclusive jurisdiction over the matters in column two, and Canada exclusive jurisdiction over the matters in column three. For example, civil law, the administration of justice, and the administration of the courts are already within provincial jurisdiction, while criminal law is under federal control. The Allaire report appears first to combine these matters into a new area, called "Justice," and then redivide them into the now existing fields of jurisdiction.

### C. Exclusive Canadian Authority

While the Allaire report assumes the continuation of a monetary and customs union under federal jurisdiction, it notes that "common decision-making mechanisms will be necessary" (A:40). This sounds less like a reference to exclusive federal jurisdiction than to the "coordinating functions" of the federal Parliament, and any decisions of the common Parliament would presumably have to be ratified by the Quebec National Assembly (A:41).

Although the Allaire report advocates provincial jurisdiction over regional development, it seems to favour replacing per capita or universal programs (equalization, U.I.C., etc.), with regional development-like payments called equalization payments. Equalization payments are at present made to provinces in order to help equalize their revenue bases. Although the payments are theoretically to allow provinces to provide reasonably equal levels of service with reasonably equal levels of taxation, it is up to the province to decide how they are applied. Therefore, they can already be used for "investment assistance in physical infrastructures, communications, transportation, etc.," which is how the Allaire report describes its "new form" of equalization payments (A:40).

The report deals only briefly with other areas of federal competence, concluding only that "defence, security and the coast guard are other natural areas of jurisdiction attributed to central institutions" (A:40).

## SOVEREIGNTY

Both the Bélanger-Campeau and Allaire reports see sovereignty as the only alternative to major constitutional reform, and as a politically and economically viable alternative. Moreover, the Bélanger-Campeau report emphasizes the importance of preparing for sovereignty now, so that Quebec is not left optionless or unprepared should constitutional reform be unachievable.

Most of the parties appearing before the Commission underscored the importance of avoiding in the future that Québec be in a position where the other members of the federation would reject its proposals without Québec having an alternative. (A:50)

The Bélanger-Campeau report notes that the Constitution could be amended to provide for Quebec independence if other provincial governments and the federal government agreed. Failing that, Quebec could secede unilaterally, in response to the unequivocal democratically expressed will of Quebecers, the ability of Quebec's political institutions to implement and maintain exclusive public authority over its territory, and Quebec's commitment to comply with the rules of international law.

From the point of secession, a Quebec constitution would govern the political and legal organization of Quebec. Such a constitution could be either transitional or plenary, and achieved by various possible mechanisms including a constituent assembly. As a transitional measure, existing Canadian legislation could be adopted until amended or replaced.

The report assumes that international treaties dealing with territory or boundaries would automatically apply to a sovereign Quebec, and that participation in GATT and free trade with the United States would be unimpaired. While a continued economic association with Canada would be desirable, the report notes that this could be achieved by means other than a formal agreement. Quebec, for example, could keep in force existing federal legislation, and harmonize with new initiatives. Mechanisms in place to ensure economic coordination could continue.



The Bélanger-Campeau report suggests that Quebec would keep the Canadian dollar as its currency, even at the loss of autonomy in monetary policy. It notes that a sovereign Quebec would have to tie its currency closely to some other currency for quite some time, in any event, so that monetary autonomy is not a practical short-term goal. As for the national debt, the report concludes that "if, after achieving sovereignty, [Quebeckers] continued to assume the same proportion of the debt and interest [as they do now], their level of debt would remain unchanged" (A:59)

The Allaire report makes few references to the national debt. It states that "Québec will indicate its intention to respect its financial commitments" (A:45). It also notes that Quebec's debt load, including a share of the federal debt, is comparable to that of other industrialized countries of similar size.

Given the trend towards freer trade in North America, the Bélanger-Campeau report assumes that Quebec and Canada would probably maintain the Canadian common market by maintaining existing free trade and applying the same trade policy to third parties. Quebec would also favour labour mobility between Quebec and Canada, and could propose continuing the existing right to live and work anywhere; the transferability of such social programs as unemployment insurance, welfare, government pension plans, and health insurance; and coordination with respect to immigration.

#### MOVING TOWARDS THE FALL OF 1992

Both reports conclude that, regardless of whether the outcome is constitutional reform or separation, certain principles and attitudes must govern the next stages. The Allaire report states that the five key principles for the future are legitimacy, stability, visibility, speed and lucidity.

*Legitimacy* for whatever process is undertaken requires the involvement and agreement of a substantial majority of Quebeckers. *Stability* includes maintaining the economic union, and full participation in trade and international treaties. *Visibility* requires that the Quebec,

Canadian and international communities be fully informed of the steps the government intends to take. *Speed* is essential, in order to reduce the costs of transition and maintain investor confidence. *Lucidity*, or clarity, is needed to maintain the dialogue.

Both reports emphasize their respect for minority rights, including the rights of the English-speaking community and aboriginals in Quebec, and the francophone community outside Quebec. The Bélanger-Campeau report, for example, speaks of maintaining "legal guarantees which ensure the complete protection of [the English-speaking community's] rights and institutions, and its full participation in Québec society" (BC:67), and of urgently specifying "the manner in which we intend to realize aboriginal self-government" (BC:67).

The Liberal convention added to the Allaire proposals a guarantee of historic anglophone rights, especially with respect to social and cultural institutions; a recognition of the contribution of other cultural communities and native peoples; and a commitment to support francophone communities outside Quebec. The Convention also added a reference to including a Charter of Rights and Freedoms, provided that such a Charter is compatible with the repatriation of powers to Quebec.

The Allaire report sets the fall of 1992 as the deadline for a referendum on sovereignty, unless the rest of Canada accepts the Allaire proposals. In the latter case, the referendum would seek approval for the new Quebec-Canada pact. Should the 1992 referendum approve a sovereign Quebec, the National Assembly would ask the government of Canada "to enter negotiations, as soon as possible, leading to the sovereignty of the Québec State. . . Québec would offer the rest of Canada an economic union managed by confederal institutions" (A:49). The report suggests that wording of the referendum will be up to the government, aided by the report of the Bélanger-Campeau Commission.

The recommendations of the Bélanger Committee consist of draft legislation, to be passed by the National Assembly in the spring of 1991, establishing the process by which Quebec would determine its political and constitutional future.<sup>(3)</sup>

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(3) See Appendix 3 for the complete recommendation.



The proposed Act would be in two parts, the first of which would establish that a referendum on Quebec sovereignty will be held either between 8 and 22 June or 12 and 26 October 1992. If the result calls for it, Quebec could become a sovereign state one year later. A parliamentary commission is to be established to study all matters related to the achievement of sovereignty, and for studying any formal offers made by the Government of Canada for economic partnership.

Part 2 of the Act would establish a special parliamentary commission to assess any offers of a new constitutional partnership made by the Government of Canada, which would be formally binding on the Government of Canada and the provinces.

Bill 150, an Act respecting the process for determining the political and constitutional future of Québec, was tabled in the National Assembly in mid-May 1991, and is included as Appendix 4.



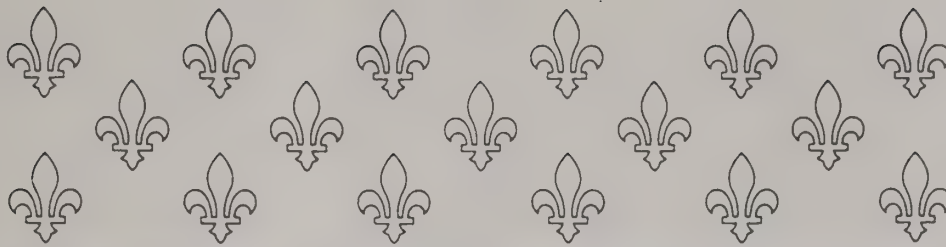


#### Appendix 1

"Preamble", an Act to establish the Commission on the Political and  
Constitutional Future of Quebec.







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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 150

**An Act respecting the process for  
determining the political and  
constitutional future of Québec**

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**Introduction**

**Introduced by  
Mr Gil Rémillard  
Minister of Justice and Minister for  
Canadian Intergovernmental Affairs**

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**Québec Official Publisher  
1991**



## EXPLANATORY NOTES

*This bill provides for the holding of a referendum on the sovereignty of Québec between the 8<sup>th</sup> and the 22<sup>nd</sup> of June 1992 or between the 12<sup>th</sup> and the 26<sup>th</sup> of October 1992.*

*It provides for the establishment of two special parliamentary committees subject to the authority of the National Assembly. The order of reference of one of these will be to examine matters pertaining to the accession of Québec to full sovereignty, and of the other, to assess any offer of a new constitutional partnership made by the Government of Canada, so long as it is binding on that Government and on the other provinces.*

*Under the terms of this bill, each committee will be composed of sixteen members. The Prime Minister, the Leader of the Official Opposition and the Minister for Canadian Intergovernmental Affairs will be members of each committee as a matter of right. The thirteen other members will be Members of the National Assembly selected by the Leaders of the parties represented in the Assembly.*

*The bill also contains the rules respecting the organization, operation and management of these committees.*

## Bill 150

### An Act respecting the process for determining the political and constitutional future of Québec

#### PREAMBLE

WHEREAS the Commission on the Political and Constitutional Future of Québec has submitted its report, together with its conclusions and recommendations;

Whereas Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development;

Whereas Quebecers wish to play an active part in defining the political and constitutional future of Québec;

Whereas the Constitution Act, 1982, was proclaimed despite the opposition of the National Assembly;

Whereas the 1987 Agreement on the Constitution, the aim of which was to allow Québec to become a party to the Constitution Act, 1982, has failed;

Whereas it is necessary to redefine the political and constitutional status of Québec;

Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;

Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;



Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-speaking community of Québec;

Whereas Québec recognizes the right of the Amerinds and the Inuit of Québec to preserve and develop their specific character and to assure the progress of their communities;

Whereas Québec considers the contribution of the cultural communities to be of prime importance for the development of Québec;

Whereas Québec supports French-speaking communities outside Québec and contributes to the international French-speaking world;

Whereas the Commission on the Political and Constitutional Future of Québec recognizes that a valid solution, other than the political sovereignty of Québec, would be a fundamental renewal of federalism through the establishment of a new constitutional partnership;

Whereas Québec wishes to ensure that everyone should have a fair understanding of the changes that are necessary to make the Canadian federal system acceptable to Québec and of the true definition of sovereignty and of its political, economic, social and cultural implications;

Whereas the Gouvernement du Québec retains at all times its full prerogative to initiate and assess measures to promote the best interests of Québec;

Whereas the National Assembly continues to hold the sovereign power to decide any matter pertaining to a referendum and to pass appropriate legislation where necessary;

Whereas in consequence it is expedient to provide for the holding of a referendum on the sovereignty of Québec, to create a special parliamentary committee to examine and analyse matters relating to the accession of Québec to full sovereignty, and to create a special parliamentary committee to assess any offer of a new constitutional partnership from the Government of Canada;

## THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### REFERENDUM ON SOVEREIGNTY

**1.** The Gouvernement du Québec shall hold a referendum on the sovereignty of Québec between 8 June and 22 June 1992 or between 12 October and 26 October 1992.

If the results of the referendum are in favour of sovereignty, they constitute a proposal that Québec acquire the status of a sovereign State one year to the day from the holding of the referendum.

### CHAPTER II

#### COMMITTEE TO EXAMINE MATTERS RELATING TO THE ACCESSION OF QUÉBEC TO SOVEREIGNTY

**2.** A special parliamentary committee called the Committee to Examine Matters Relating to the Accession of Québec to Sovereignty is hereby established, under the authority of the National Assembly.

**3.** The order of reference of the committee is to examine and analyse matters relating to the accession of Québec to full sovereignty, that is, to a position of exclusive jurisdiction, through its democratic institutions, to make laws and levy taxes in its territory and to act on the international scene for the making of agreements and treaties of any kind with other independent States and participating in various international organizations, and to make recommendations to the National Assembly in that regard.

A further order of reference of the committee is to examine and analyse any formal offer of economic partnership that may be made by the Government of Canada, and to make recommendations to the National Assembly with regard to the offer.

### CHAPTER III

#### COMMITTEE TO EXAMINE ANY OFFER OF A NEW CONSTITUTIONAL PARTNERSHIP

**4.** A special parliamentary committee called the Committee to Examine any Offer of a New Constitutional Partnership is hereby established, under the authority of the National Assembly.

5. The order of reference of the committee is to assess any offer of a new constitutional partnership made to the Gouvernement du Québec by the Government of Canada and to make recommendations to the National Assembly with regard to the offer.

6. No offer of a new constitutional partnership made to the Gouvernement du Québec may be submitted to the assessment of the committee unless it is formally binding on the Government of Canada and the other provinces.

## CHAPTER IV

### GENERAL PROVISIONS RESPECTING THE COMMITTEES

#### DIVISION I

##### COMPOSITION

7. Each committee shall be composed of sixteen members, including the chairman.

In order to reflect the numerical strength of the parties represented in the National Assembly, the committees shall be composed of the following members: the Prime Minister, the Leader of the Official Opposition, the Minister for Canadian Intergovernmental Affairs and thirteen Members of the National Assembly nominated as follows:

- (1) nine Members from the Government party, named by the Prime Minister;
- (2) three Members from the Official Opposition party, named by the Leader of the Official Opposition;
- (3) the Leader of the other party represented in the Opposition, or a Member from that party named by him.

The chairman of each committee and, where necessary, his permanent substitute, shall be appointed by the Prime Minister.

8. The Prime Minister, the Leader of the Official Opposition and the Leader of the other party represented in the Opposition shall transmit written notice of the names of the Committee members they are responsible for naming or appointing to the President of the National Assembly.

9. Any member of a committee may be substituted for, for a single sitting or part thereof, by a Member of the National Assembly, including a Minister.

At the beginning of each sitting or, as the case may be, of any part of a sitting, the clerk to the committee shall announce the names of substitutes that have been signified to him by the Whip of each party or his representative, or by the committee member contemplated in subparagraph 3 of the second paragraph of section 7.

10. Any vacancy among the thirteen seats on a committee shall be filled, and any permanent substitution for any of the thirteen members appointed to a committee shall be made, according to the rules provided for the appointment of the member being replaced.

11. All the members of a committee, including their substitutes, have the right to vote.

#### DIVISION II

##### ORGANIZATION, OPERATION, MANAGEMENT AND EXPENSES

#### § 1.—*Organization*

12. The chairman of a committee shall prepare the staffing plan, budget estimates and work-plan of the committee. He shall authorize applications to the Office of the National Assembly.

He shall call and direct the sittings of the committee. He shall take part in the deliberations of the committee, direct its proceedings, ensure that its decisions are correctly implemented and exercise his right, under section 11, to vote.

13. For the purposes of this chapter, the chairman has the attributions of the chief executive officer of an agency. Notwithstanding any other provision of law, he may delegate these attributions to any person he may designate.

14. Where the chairman of a committee is unable to act, or at his request, a member of the committee designated by him shall substitute for him and carry on his duties.

15. The committees shall be assisted by a secretariat in carrying out their orders of reference.



The clerk and the deputy-clerk to the committees shall be appointed by the chairmen.

**16.** With the authorization of the chairmen, the clerk may engage the services of any person to form part of the secretariat of the committees.

**17.** The remuneration and other conditions of employment of the personnel of the secretariat shall be determined by the Office of the National Assembly.

**18.** The clerk to the committees, under the exclusive authority of the chairmen, shall direct the personnel of the committees, administer the day to day business of the committees and discharge any other functions assigned to him by the chairmen.

**19.** The clerk shall attend the sittings of the committees.

When the committees are sitting simultaneously, the clerk or the deputy-clerk shall attend whichever sitting the chairmen determine.

The clerk or the deputy-clerk, as the case may be, shall see that the minutes are taken and may attest to their authenticity. The clerk shall have custody of the records of the committees.

**20.** Where the clerk or the deputy-clerk is unable to act, any other person designated by the chairmen may substitute for him and carry on his duties.

**21.** The President and the Secretary General of the National Assembly shall provide the secretariat of the committees with any assistance it may need to carry out the orders of reference of the committees, including supplying personnel.

#### § 2.—*Operation*

**22.** In order to carry out their orders of reference, the committees may order any research and hold any consultation they consider necessary and hear any interested person or organization.

**23.** The sittings of the committees shall be public, with the exception, of working sittings and sittings with closed doors.

The committees may sit anywhere in the territory of the Communauté urbaine de Québec.

**24.** The committees may meet without regard to how many parliamentary committees may be meeting simultaneously.

#### § 3.—*Management and expenses*

**25.** The committees may incur any expenses necessary for the carrying out of their orders of reference. Their expenses shall form part of the expenses of the National Assembly.

**26.** The budget estimates of each of the committees shall be approved by the Office of the National Assembly.

#### DIVISION III

##### MISCELLANEOUS PROVISIONS

**27.** Except as otherwise provided by this Act, all provisions applicable to standing committees and their members and personnel contained in the Act respecting the National Assembly (R.S.Q., chapter A-23.1), the Standing Orders of the National Assembly, the Operating Rules for Committees and the regulations, rules and decisions adopted by the Office of the National Assembly apply, adapted as required, to the special committees.

However, paragraph 4 of Standing Order 115 and Standing Orders 121, 123, 132, 134, 135 and 137 of the Standing Orders of the National Assembly do not apply to these committees, and no interpellation under Standing Order 295 is admissible therein.

In addition, for the application of this Act, the Office of the National Assembly may, by regulation, make amendments to the rules and regulations it has adopted in respect of the management and expenses of the Assembly and exercise its power under the second paragraph of section 110 of the Act respecting the National Assembly. Such a regulation may, if it so provides, have effect from any date not prior to (*insert here the date of coming into force of this Act*).

**28.** A committee ceases to exist by decision of the National Assembly upon the motion of the Prime Minister or his representative. In addition, the committees cease to exist upon the dissolution of the National Assembly.

When a committee ceases to exist, its records become records of the National Assembly.

**[29.]** The sums required for the carrying out of this chapter shall be taken out of the consolidated revenue fund.]]



## CHAPTER V

## FINAL PROVISIONS

**30.** The committees established under this Act may hold sittings from *(insert here the date occurring 15 days after the date of coming into force of this Act)* even if all the written notices provided for in section 8 have not been transmitted to the President of the National Assembly.

**31.** This Act comes into force on *(insert here the date of assent to this Act)*.



## Appendix 2

"Report of the Commission on the Political and Constitutional  
Future of Québec", Quebec, National Assembly, March 1991, pp. 79-82.





## 8. RECOMMENDATIONS

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The Commission recommends to the National Assembly the adoption, in the spring of 1991, of a legislation establishing the process by which Québec determines its political and constitutional future.

The legislation would contain three sections, that is, a preamble; a first part dealing with a referendum to be held on Québec sovereignty; and a second part dealing with the offer of a new partnership of constitutional nature.

### "Preamble

1. Considering the report, the conclusions and the recommendations of the Commission on the Political and Constitutional Future of Québec;
2. Whereas Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development;
3. Whereas Quebecers wish to play an active part in defining the political and constitutional future of Québec;
4. Whereas the *Constitution Act, 1982*, was proclaimed despite the opposition of the National Assembly;

## 8. RECOMMENDATIONS

---

5. Whereas the 1987 Agreement on the Constitution, the aim of which was to allow Québec to become a party to the *Constitution Act, 1982*, has failed;
6. Whereas it is necessary to redefine the political and constitutional status of Québec.

### Part 1 of the Act: Referendum on Québec Sovereignty

The Act provides:

- . that a referendum on Québec sovereignty is to be held, either between June 8 and 22, 1992, or between October 12 and 26, 1992;
- . that, should the outcome of the referendum be positive, Québec will acquire the status of a sovereign State one year, day for day, after the date of the referendum;
- . for the establishing of a special parliamentary commission of the National Assembly and for its membership, to examine matters related to Québec's accession to sovereignty;
- . that the special parliamentary commission will study and analyse all matters related to Québec's accession to full sovereignty, that is, Québec's



## 8. RECOMMENDATIONS

---

exclusive capacity, through its democratic institutions, to adopt laws, levy taxes within its territory and act on the international scene in order to conclude all manner of agreements or treaties with other independent States, and participate in various international organizations; that the commission will make recommendations in this respect to the National Assembly;

that the commission will also be responsible, should the Government of Canada make a formal offer respecting an economic partnership, for studying and analysing such an offer and making recommendations in this respect to the National Assembly;

that the commission will be granted a budget and authorized to have studies prepared and conduct whatever consultations it deems necessary, and to hear all interested persons and organizations.

### **Part 2 of the Act: Offer of a New Partnership of Constitutional Nature**

The Act provides:

for the establishing of a special parliamentary commission of the National Assembly and for its membership, to assess any offer of a new partnership of constitutional nature made by the Government of Canada, and to make recommendations in this respect to the National Assembly;

## 8. RECOMMENDATIONS

---

- . that only an offer formally binding the Government of Canada and the provinces may be examined by the commission;
- . that the commission will be granted a budget and authorized to have studies prepared and conduct whatever consultations it deems necessary, and to hear all interested persons and organizations."

The foregoing is a translation of the recommendations recorded in the minutes of the March 25, 1991 meeting of the Commission held in Québec City.

### Appendix 3

Quebec Liberal Party, "Report of the Constitutional Committee:  
A Quebec Free to Choose", Propositions as amended by  
the 25th Convention of the Quebec Liberal Party, March 9, 1991.





# *Report of the Constitutional Committee*

*A Québec Free To Choose  
Proposition as amended  
by the 25th Convention  
of the Québec Liberal Party  
March 9, 1991*

---

It is proposed:

1. That the government formed by the Québec Liberal Party undertake a thorough reform of the political and constitutional structure of Québec society, as described in this document;

1\* Adopted

2. That in order to provide Quebeckers with a political and constitutional structure that meets their most legitimate aspirations, the Québec Liberal Party and the government it forms undertake to:

- a) present this proposal for political and constitutional reform to the government of Canada as soon as possible; this proposal for reform may be improved by Party bodies once the Bélanger-Campeau Commission has tabled its report;

- b) hold a referendum, before the end of the Fall of 1992, following a resolution to this effect passed by the National Assembly, so that:

1. should the rest of Canada agree with the reform proposed by Québec within this time period, the referendum deal with the ratification of this agreement;

2. If an agreement is not reached on the reform proposed by Québec, that the government formed by the Québec Liberal Party propose that Québec assume the status of a sovereign state; that in this case, Québec offer to arrange an economic union with the rest of Canada, managed by institutions of a confederal nature;

2\* Adopted as amended

(4• Cont'd...)

- c) the central government will exercise exclusive authority in certain areas, in particular:
- Defence and territorial security
  - Customs and tariffs
  - Currency and common debt
  - Equalization
- d) certain powers will be shared between Québec and Canada, according to the respective authorities of each level of government, in particular:
- Native affairs
  - Taxation and revenue
  - Immigration
  - Financial institutions
  - Justice
  - Fisheries
  - Foreign policy
  - Post office and telecommunications
  - Transport
- e) the National Assembly will quickly begin the process of preparing a Constitution of Québec, the foundation of its political and legal institutions; this constitution will safeguard the recognized historic rights of anglophone Quebecers and specifically the right to their own social and cultural institutions along with the right to manage their development. In addition, it will recognize the role, the importance and the contribution of cultural and aboriginal communities within Québec;
- f) the Québec Charter of Human Rights and Freedoms will be entrenched in the Constitution of Québec;
- g) the Québec government will increase its support to francophone communities outside Québec;



5. That the Canadian economic union be maintained and strengthened according to the following guidelines:

- a) free mobility of goods, people and capital;
- b) customs and monetary union;
- c) restoring balance to Canadian public finances by reducing the size of the central state and imposing institutional limitations on its budgetary practices, including the establishment of specific targets to severely limit deficits and restrict its taxation power;

5. Adopted
------------

6. That a new Québec-Canada structure be created to establish a new political and constitutional order including:

- a) replacement of the current Canadian Constitution by a new constitution including the right of the parties to withdraw following advance notice and incorporating a charter of rights and freedoms, retaining the notwithstanding clause and ensuring that the application of this charter is consistent with the repatriation of powers stipulated in this reform;
- b) the implementation of a new amending formula providing that any constitutional amendment be subject to the approval of a substantial majority of the provinces together representing at least 50% (FIFTY PERCENT) of the population of Canada, Québec necessarily being one of the provinces;
- c) the abolition of the Senate in its current form and maintenance of a common Parliament, elected by universal suffrage, whose legislative powers will be restricted to the areas of authority described above;
- d) elimination of the central government's spending power in Québec's exclusive areas of authority;
- e) elimination of overlapping jurisdictions;
- f) creation of a community tribunal to ensure compliance with the constitution and enforce legislation within the jurisdiction of the new central state;
- g) reform of the Bank of Canada to ensure regional representation, while maintaining its independence from political authorities;

6. Adopted as amended
-----------------------

9• In the event of a repatriation by Québec of powers exercised by the government of Canada, a government formed by the Québec Liberal Party undertake :

- 1) to designate the Québec Outaouais as a protected region, thereby recognizing the uniqueness of the Québec Outaouais, and undertake to implement adequate, concrete means to maintain its economic, social and cultural stability in the proposed new political context;
- 2) to maintain a strong government presence in the Outaouais to preserve a maximum number of public servants, and to establish certain agencies in this region that fulfil Québec's new obligations and for the purposes of the common Québec-Canada Institutions;
- 3) to assign a specific mandate including the following elements to an economic agency or independent firm :
  - a) the preparation of an exhaustive study of the economic effects of Québec's repatriation of certain powers on the jobs of federal public servants and other workers both in Québec and Ontario;
  - b) the preparation of a detailed economic diversification plan, including the possible retraining or relocation of public servants in various job spheres as well as the creation of new jobs in sectors of activity such as : high technology, tourism, trade, services, wholesaling, diversified manufacturing, etc. These reports are to be completed before March 1992;
- 4) to allocate the sums necessary to carry out this action plan and to follow up on it as quickly as possible to ensure that the full-fledged Quebecers of the Outaouais not suffer undue hardship as a result of the constitutional reform;
- 5) to maintain these economic diversification programs as well as special financial incentive programs to encourage new businesses to establish themselves until the Outaouais reaches an economic balance.

Appendix 4

Draft legislation tabled by the government of Quebec, May 15 1991





*An Act to establish the Commission on the Political and  
Constitutional Future of Québec, S.Q. 1990, ch. 34*

WHEREAS, Quebecers are free to assume their own destiny, to determine their political status and to assure their economic, social and cultural development;

Whereas Quebecers wish to play an active part in defining the political and constitutional future of Québec;

Whereas the Constitution Act, 1982, was proclaimed despite the opposition of the National Assembly;

Whereas the 1987 Agreement on the Constitution, the aim of which was to allow Québec to become a party to the Constitution Act, 1982, has failed;

Whereas it is necessary to redefine the political and constitutional status of Québec;

Whereas Québec has already demonstrated its respect for democratic values and individual rights and freedoms;

Whereas Québec has recognized that Quebecers wish to see the quality and influence of the French language assured and to make it the language of Government and the Law, as well as the normal and everyday language of work, instruction, communication, commerce and business;

Whereas Québec intends to pursue this objective in a spirit of fairness and open-mindedness, respectful of the rights and institutions of the English-speaking community of Québec;

Whereas Québec recognizes the right of the Amerinds and the Inuit of Québec to preserve and develop their specific character and to assure the progress of their communities and that it considers the contribution of the cultural communities to be of prime importance for the development of Québec;

Whereas Québec supports French-speaking communities outside Québec and contributes to the international French-speaking world;

Whereas the economy of Québec is mature and vigorous and Quebecers clearly wish to see its development and growth assured, while respecting the demands of both market globalization and social justice;



Whereas in consequence it is expedient to create a special Commission to examine and analyse the political and constitutional status of Québec;  
THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

## DIVISION I

### ESTABLISHMENT AND MANDATE

1. The Commission on the Political and Constitutional Future of Québec is hereby established, under the authority of the National Assembly.

2. The mandate of the Commission is to examine and analyse the political and constitutional status of Québec and to make recommendations in respect thereof.

3. In order to fulfil its mandate, the Commission may carry out any research and consultation it considers necessary.

It shall use the following means, among others:

- the holding of public hearings in various regions of Québec;
- the hearing of experts;
- the holding of forums on specific aspects of the mandate, in particular the social, cultural, demographic and regional development aspects.

4. The Commission shall report to the National Assembly not later than 28 March 1991.

It shall submit its report to the President of the National Assembly and render it public by whatever means it considers appropriate.

The President shall table the report before the National Assembly without delay or, if the Assembly is not sitting, within 15 days of resumption.

## DIVISION II

### MEMBERS

5. The following persons, appointed by the National Assembly or, if it is not sitting, by the President of the National Assembly, shall become members of the Commission immediately upon appointment:





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